

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

ALEJANDRO HERNANDEZ

Plaintiff,

v.

STATE FARM LLOYDS,

Defendant.

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No. _____

JURY DEMAND

DEFENDANT STATE FARM LLOYDS' NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1441 and 1446, State Farm Lloyds ("State Farm" or "Defnedant") files this Notice of Removal to the United States District Court for the Northern District of Texas, Dallas Division, on the basis of diversity of citizenship and amount in controversy and respectfully shows:

I.

FACTUAL AND PROCEDURAL BACKGROUND

1. On February 3, 2015, Plaintiff Alejandro Hernandez filed his Original Petition in the matter styled *Alejandro Hernandez v. State Farm Lloyds*, Cause No. DC-15-01286 in the 116th District Court in and for Dallas County, Texas. The lawsuit arises out of a claim Plaintiff made for damages to his home under a homeowner's insurance policy with State Farm Lloyds.

2. Plaintiff served State Farm with a copy of the Original Petition on or about February 12, 2015.

3. State Farm files this notice of removal within 30 days of receiving Plaintiff's pleading. *See* 28 U.S.C. §1446(b). In addition, this Notice of Removal is being filed within one

year of the commencement of this action.

4. All pleadings, process, orders, and other filings in the state court action are attached to this Notice as required by 28 U.S.C. §1446(a). A copy of this Notice is also concurrently being filed with the state court and served upon the Plaintiff.

5. As required by 28 U.S.C. § 1446(a) and Rule 81.1 of the Local Rules, simultaneously with the filing of this notice of removal, attached hereto as Exhibit "A" is an Index of State Court Documents, a copy of the Docket Sheet is attached as Exhibit "B," a copy of Plaintiffs' Original Petition is attached as Exhibit "C," a copy of the Jury Demand is attached as Exhibit "D," a copy of the Citation issued on State Farm Lloyds is attached as Exhibit "E," a copy of State Farm Lloyds' Original Answers is attached as Exhibit "F."

6. Venue is proper in this Court under 28 U.S.C. §1441(a) because this district and division embrace Dallas County, Texas, the place where the removed action has been pending and where the incident giving rise to this lawsuit took place.

II.

BASIS FOR REMOVAL

7. Removal is proper based on diversity of citizenship under 28 U.S.C. §§1332(a), 1441(a) and 1446.

A. The Proper Parties Are Of Diverse Citizenship

8. Plaintiff is, and was at the time the lawsuit was filed, a resident and citizen of Texas. *See* Pl's Original Pet., Exhibit C, ¶ 3.

9. Defendant State Farm is, and was at the time the lawsuit was filed, a citizen of the states of Illinois, Colorado and Pennsylvania. State Farm is a "Lloyd's Plan" organized under Chapter 941 of the Texas Insurance Code. It consists of an association of underwriters, each of whom, at the time this action was commenced were, and still are, citizens and residents of the

states of Illinois, Colorado and Pennsylvania. Therefore, State Farm is a citizen and resident of the states of Illinois, Colorado and Pennsylvania for diversity purposes. *Royal Ins. Co. v. Quinn-L Capital Corp.*, 3 F.3d 877, 882 (5th Cir. 1993); *Massey v. State Farm Lloyd's Ins. Co.*, 993 F. Supp. 568, 570 (S.D. Tex. 1998) ("the citizenship of State Farm Lloyds must be determined solely by the citizenship of its members, or underwriters."); *Rappaport v. State Farm Lloyd's*, 1998 WL 249211 (N.D. Tex. 1998) (finding that State Farm Lloyds is an unincorporated association whose members are completely diverse with Plaintiff, and denying remand).

10. Because Plaintiff is a citizen of Texas and Defendant State Farm is a citizen of Illinois, Colorado and Pennsylvania, complete diversity of citizenship exists among the parties.

B. The Amount in Controversy Exceeds \$75,000.00

11. This is a civil action in which the amount in controversy exceeds \$75,000.00. In his complaint, Plaintiff alleges a variety of claims revolving largely around a first party insurance dispute regarding the extent of damages and amount of loss suffered to the Plaintiff's Property. See Exhibit "C." Specifically, but without limitation, Plaintiff alleges that Defendant State Farm breached insurance policy number 43-BV-B860-8, with a Dwelling Limit of \$85,530.00, a Dwelling Extension Limit of \$8,553.00, a Contents Limit of \$64,147.00, and an Additional Living Expense Limit of the Actual Loss Sustained, for the property located at 2119 Boyd St., Dallas, TX 75224 (the property giving rise to the present dispute). See Exhibit "G," Declaration of Adrienne B. Hamil, attached hereto and fully incorporated herein as if set out in full. In determining the amount in controversy, the Court may consider "policy limits ... penalties, statutory damages, and punitive damages." *St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998).

12. In addition, Plaintiff's Original Petition seeks damages for breach of contract,

violations of the Texas Deceptive Trade Practices Act, violations of the Texas Insurance Code, and breach of the duty of good faith and fair dealing. Plaintiff asks to be awarded actual damages, consequential damages, treble damages under the Texas Insurance Code and Texas Deceptive Trade Practices Act, punitive damage, additional damages, exemplary damages, attorneys' fees, court costs, prejudgment interest, and post judgment interest. Based on the limits of the underlying insurance policy and the allegations set forth in Plaintiff's Original Petition, the amount in controversy in this case well exceeds the \$75,000.00 jurisdictional requirement.

Conclusion and Prayer

All requirements are met for removal under 28 U.S.C. §§ 1332 and 1441. Accordingly, Defendant State Farm Lloyds hereby removes this case to this Court for trial and determination.

Respectfully submitted,

/s/ Rhonda J. Thompson

Rhonda J. Thompson

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Adrienne B. Hamil

State Bar No. 24069867

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**COUNSEL FOR DEFENDANT STATE FARM
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CERTIFICATE OF SERVICE

I hereby certify that on March 10, 2015 a true and correct copy of the foregoing has been forwarded to counsel of record in accordance with the applicable Rules of Civil Procedure:

Via Email and Certified Mail, RRR:

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